

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JEFFREY A. BRONSTER, PC
625 18th Street
Union City, NJ 07087
(201) 330-7701
Fax: (201) 330-7701
email: jbronster@bronsterlaw.com
Attorney for the Plaintiff

PATRICK DONNELLY,

Plaintiff,

vs.

NEW JERSEY RE-INSURANCE
COMPANY,

Defendant.

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Civil Action No.

2:12-cv-07629-ES-JAD

AMENDED COMPLAINT

The plaintiff, Patrick Donnelly, by way of Complaint against the defendants, hereby states as follows:

JURISDICTION AND PARTIES

1. This is an action brought by Patrick Donnelly, an individual residing at 245 Grove Street, Jersey City, New Jersey 07032.

2. Defendant New Jersey Re-Insurance Company is an insurance company, having its principle place of business at 301 Sullivan Way, West Trenton, NJ 08628, which at the times relevant to this Complaint issued and administered flood insurance policies under the FEMA “Write Your Own” program, insuring both real and personal property within the state of New Jersey.

3. The claims asserted herein arise under a federal Standard Flood Insurance Policy (“SFIP”), and this Court therefore has jurisdiction over this action pursuant to 42 U.S.C. § 4072, without regard to the amount in controversy or the citizenship of the parties.

FIRST CAUSE OF ACTION

Breach of Contract - Hurricane Irene

1. The allegations of all previous paragraphs of this Complaint are realleged and incorporated as though fully set forth herein.

2. At all times relevant to this count, plaintiff’s home was covered by a FEMA flood policy issued under the WYO program by New Jersey Re-Insurance Company, Policy No. 00N0105734.

3. On or about August 28, 2011, as a result of the storm known as Hurricane Irene, the plaintiff’s property suffered damage constituting a covered event under the Policy.

4. Thereafter, plaintiff complied with the terms of the Policy.

5. On or about November 28, 2011, plaintiff, through his public adjuster, complied with the Proof of Loss requirement of the SFIP, by sending a sworn proof to the defendant.

6. Nevertheless, by letter dated February 27, 2012 from James A. Sadler, Director of Claims for the National Flood Insurance Program, plaintiff’s flood claim was denied.

7. Upon information and belief, the basis for the denial of plaintiff’s claim was the erroneous classification of the lowest floor of his building as a “basement,” as that term is defined in the FEMA flood policy.

8. The denial was a breach of the insurance contract, whereby plaintiff has been damaged.

WHEREFORE, plaintiff demands judgment for compensatory damages, prejudgment interest, and such further relief as the Court may deem just and proper.

SECOND CAUSE OF ACTION

Breach of Contract - Hurricane Sandy

1. The allegations of all previous paragraphs of this Complaint are realleged and incorporated as though fully set forth herein.

2. At all times relevant to this count, plaintiff's home was covered by a FEMA flood policy issued under the WYO program by New Jersey Re-Insurance Company, Policy No. 00N0105734.

3. On or about October 31, 2012, as a result of the storm known as Hurricane Sandy, the plaintiff's property suffered damage constituting a covered event under the Policy.

4. Thereafter, plaintiff complied with the terms of the Policy.

5. Plaintiff complied in a timely manner with the Proof of Loss requirement of the SFIP by sending a sworn proof to the defendant, receipt of which was acknowledged by the defendant in a letter dated December 14, 2012.

6. Nevertheless, in the aforesaid letter, the insurance company denied any payment on the plaintiff's claim.

7. Upon information and belief, the basis for the denial of plaintiff's claim was the erroneous classification of the lowest floor of his building as a "basement," as that term is defined in the FEMA flood policy.

8. The denial was a breach of the insurance contract, whereby plaintiff has been damaged.

WHEREFORE, plaintiff demands judgment for compensatory damages, prejudgment interest, and such further relief as the Court may deem just and proper.

/s/ *Jeffrey A. Bronster*

JEFFREY A. BRONSTER

Dated: Union City, New Jersey
September 17, 2013